IN THE HIGH COURT OF BOMBAY AT GOA.

FIRST APPEAL NO.3 OF 2000

1. Special Land Acquisition Officer
(South Goa) Konkan Railway
Corporation Limited,
Amey Guest House,
Davorlim Road,
P.O. Navelim,
Salcete Goa, 403 707.

2. Chief Engineer,
Konkan Railway Corporation Ltd.,
Rawnfond,
near Margao Railway Station,
Margao Goa. ... Appellants.

V/s

1. Babu Datta Naik Dessai
since deceased represented by
his Lrs.
1(i) Prabhavati Babu Naik Dessai
1(ii) Shailesh Babu Dessai
1(iii) Sarita Shailesh Dessai
1(iv) Rajesh Babu Dessai
1(v) Shoba Rajesh Dessai
1(vi) Dinesh Babu Dessai
1(vii) Anjani Dinesh Dessai
All residents of Chaudi,
Canacona, Goa. ... Respondents.

Mr. E. Afonso, Advocate for the appellants.

Mr. P.A. Kamat, Advocate for the respondents.

CORAM: A.P. LAVANDE, J.

DATE: 4TH MAY, 2005.

ORAL JUDGMENT

The appellants challenge the judgment and award dated 22.7.1999 passed by the Additional District Judge, South Goa, Margao in Land Acquisition No.155/95.

2. By Notification dated 24.7.1991 issued under Section 4 of the Land Acquisition Act (the Act for short) the Government acquired for Konkan Railway Corporation Ltd. large chunks of land situated at Nagorcem Palolem. Properties bearing survey nos. 56/1 and 56/15 admeasuring 5400 square meters belonging to Babu Datta Naik Dessai, the original applicant before the reference Court, were part of the acquired land. The said lands were paddy fields. The Special Land Acquisition Officer by his award dated 9.12.1993 awarded Rs.9/- for the acquired lands. Aggrieved by the said award, the original applicant sought reference under Section 18 of the Act and claimed compensation of Rs.120/- per square metre. The reference Court relying upon the Award dated 15th March 1998 (Exhibit AW1/D) which was in respect of acquisition for the proposed approach road to Talpona Galjibag bridge awarded Rs.24/- per square metre in respect of the acquired land after holding that the acquired

lands were similar to the lands in the said Award dated 15th March 1989. The reference Court granted increase of 10% every year on compounding basis and fixed the compensation in respect of the acquired lands at the rate of Rs.24/- per square metre.

3. Mr. Afonso, learned Counsel appearing for the appellants submitted that the reference Court ought not to have relied upon the Award dated 15th March 1989 (Exhibit AW1/D) and that in any case the reference Court ought not to have granted increase of 10% per year on compounding basis since the acquired land was paddy field having no building potential. The learned Counsel further submitted that the original applicant had neither led any evidence of any development around the acquired land during the years preceding Section 4 Notification nor led any evidence to prove that the prices of paddy fields increased by 10% every year.

4. Per contra, Mr. Kamat appearing for the respondents submitted that the reference Court was absolutely justified in placing reliance on the Award dated 15th March 1998 (Exhibit AW1/D) since it was in respect of similar lands. The learned

Counsel further submitted that the Apex Court has consistently held that increase of 10% on compounding basis has to be granted in fixing the market rate.

5. I have considered the submissions made by the learned Counsel appearing for the parties. Since the Award dated 15th March 1989 (Exhibit AW1/D) was in respect of the similar lands in the proximity of the acquired lands, in my opinion, the reference Court was absolutely justified in relying upon the said Award dated 15th March 1989 (Exhibit AW1/D) and fix the market value of the acquired land at Rs.15/- per square metre in April 1986. In so far as the increase of 10% per year granted by the reference Court, I have already held in a number of connected appeals arising out of the same Notification that having regard to the fact that the acquired land is a paddy field and situated at Nagorcem, Palolem and also having regard to the fact there is absolutely no evidence led about any development around the acquired land during the years preceding Section 4 Notification, increase of 5% and not 10% per year would be justified. Accordingly, by giving increase of 5% every year the market rate of the acquired lands works out to Rs.18.75 per square meter. I deem it appropriate to round it up to Rs.19/-

per square metre. Accordingly I hold that the compensation payable in respect of the acquired lands is Rs.19/- per square metre. Needless to mention that the respondents are entitled to all the statutory benefits under the Act.

6. In view of the above discussion, the appeal is partly allowed and the Award passed by the Reference Court is accordingly modified. Having regard to the facts and circumstances of the case, the parties are directed to bear their own costs.

A.P. LAVANDE, J.

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